BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation and Petition to Revoke Probation Against:	)	
RYAN CURTIS PETERSON, M.D.	)	**Case No. 800-2018-049496**
Physician's and Surgeon's Certificate No. A103097	)	
Respondent	)	

DECISION

The attached Stipulated Settlement and Disciplinary Order is hereby adopted as the Decision and Order of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on July 12, 2019.

IT IS SO ORDERED: June 13, 2019.

MEDICAL BOARD OF CALIFORNIA

Kristina Lawson, JD, Chair
Panel B

XAVIER BECERRA
Attorney General of California
JUDITH T. ALVARADO
Supervising Deputy Attorney General
TAN N. TRAN
Deputy Attorney General
State Bar No. 197775
California Department of Justice
300 So. Spring Street, Suite 1702
Los Angeles, CA 90013
Telephone: (213) 269-6535
Facsimile: (213) 897-9395
Attorneys for Complainant

BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation and Petition to Revoke Probation Against: **Ryan Curtis Peterson, M.D.** **Physician's and Surgeon's Certificate No. A 103097,** Respondent.	**Case No. 8002018049496** **STIPULATED SETTLEMENT AND DISCIPLINARY ORDER**

In the interest of a prompt and speedy settlement of this matter, consistent with the public interest and the responsibility of the Medical Board of California of the Department of Consumer Affairs, the parties hereby agree to the following Stipulated Settlement and Disciplinary Order which will be submitted to the Board for approval and adoption as the final disposition of the Accusation/Petition to Revoke Probation.

PARTIES

1. Kimberly Kirchmeyer (Complainant) is the Executive Director of the Medical Board of California. She brought this action solely in her official capacity and is represented in this matter by Xavier Becerra, Attorney General of the State of California, by Tan N. Tran, Deputy Attorney General.

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2. Respondent Ryan Curtis Peterson, M.D. (Respondent) is represented in this proceeding by attorney Sara E. Hersh, whose address is: Nelson Hardiman LLP, 1100 Glendon Avenue, 14th Floor, Los Angeles, CA 90024.

3. On or about March 13, 2008, the Medical Board of California issued Physician's and Surgeon's Certificate No. A 103097 to Ryan Curtis Peterson, M.D. (Respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought in Accusation and Petition to Revoke Probation No. 8002018049496 and will expire on August 31, 2019, unless renewed.

JURISDICTION

4. Accusation and Petition to Revoke Probation No. 8002018049496 was filed before the Medical Board of California (Board), Department of Consumer Affairs, and is currently pending against Respondent. The Accusation and Petition to Revoke Probation and all other statutorily required documents were properly served on Respondent on November 21, 2018. Respondent timely filed his Notice of Defense contesting the Accusation and Petition to Revoke Probation. A copy of Accusation and Petition to Revoke Probation No. 8002018049496 is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation and Petition to Revoke Probation No. 8002018049496. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

6. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in Accusation and Petition to Revoke Probation No. 8002018049496; the right to be represented by counsel at his own expense; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision;

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and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

8. Respondent does not contest that, at an administrative hearing, complainant could establish a prima facie case with respect to the charges and allegations contained in Accusation and Petition to Revoke Probation No. 8002018049496, and that he has thereby subjected his license to disciplinary action.

9. Respondent agrees that if he ever petitions for early termination or modification of probation, or if the Board ever petitions for revocation of probation, all of the charges and allegations contained in Accusation and Petition to Revoke Probation No. 8002018049496 shall be deemed true, correct, and fully admitted by Respondent for purposes of that proceeding.

10. Respondent agrees that his Physician's and Surgeon's Certificate is subject to discipline and he agrees to be bound by the Board's imposition of discipline as set forth in the Disciplinary Order below.

RESERVATION

11. The admissions made by Respondent herein are only for the purposes of this proceeding, or any other proceedings in which the Board or other professional licensing agency is involved, and shall not be admissible in any other criminal or civil proceeding.

CONTINGENCY

12. This stipulation shall be subject to approval by the Medical Board of California. Respondent understands and agrees that counsel for Complainant and the staff of the Medical Board of California may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent or his counsel. By signing the stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary

Order shall have no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

13. The parties understand and agree that facsimile copies of this Stipulated Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same force and effect as the originals.

14. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

DISCIPLINARY ORDER

15. In a prior disciplinary action entitled *In the Matter of Accusation Against Ryan C. Peterson, M.D.*, Case No. 06-2011-217874, the Medical Board of California issued a decision, effective June 21, 2013 (the "2013 Decision"), in which Respondent's Physician's and Surgeon's Certificate was revoked. However, the revocation was stayed and Respondent was placed on probation for a period of seven (7) years with certain terms and conditions. Respondent voluntarily, knowingly, and intelligently waives and gives up his right to file a Petition for Early Termination of Probation, pursuant to the 2013 Decision, or pursuant to this Stipulated Settlement and Disciplinary Order. A copy of the 2013 Decision is attached as Exhibit B and is incorporated herein by reference.

16. IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate Number A 103097 issued to Ryan Curtis Peterson, M.D. is revoked. However, the revocation is stayed and two (2) additional years of probation are added to Respondent's current probation with the following terms and conditions.

17. PRESCRIBING PRACTICES COURSE. Within 60 calendar days of the effective date of this Decision, Respondent shall enroll in a course in prescribing practices equivalent to the Prescribing Practices Course at the Physician Assessment and Clinical Education Program, University of California, San Diego School of Medicine (Program), approved in advance by the Board or its designee. Respondent shall provide the program with any information and

documents that the Program may deem pertinent. Respondent shall participate in and successfully complete the classroom component of the course not later than six (6) months after Respondent's initial enrollment. Respondent shall successfully complete any other component of the course within one (1) year of enrollment. The prescribing practices course shall be at Respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

A prescribing practices course taken after the acts that gave rise to the charges in the Accusation and Petition to Revoke Probation, but prior to the effective date of the Decision may, in the sole discretion of the Board or its designee, be accepted towards the fulfillment of this condition if the course would have been approved by the Board or its designee had the course been taken after the effective date of this Decision.

Respondent shall submit a certification of successful completion to the Board or its designee not later than 15 calendar days after successfully completing the course, or not later than 15 calendar days after the effective date of the Decision, whichever is later.

18. MEDICAL RECORD KEEPING COURSE. Within 60 calendar days of the effective date of this Decision, Respondent shall enroll in a course in medical record keeping equivalent to the Medical Record Keeping Course offered by the Physician Assessment and Clinical Education Program, University of California, San Diego School of Medicine (Program), approved in advance by the Board or its designee. Respondent shall provide the program with any information and documents that the Program may deem pertinent. Respondent shall participate in and successfully complete the classroom component of the course not later than six (6) months after Respondent's initial enrollment. Respondent shall successfully complete any other component of the course within one (1) year of enrollment. The medical record keeping course shall be at Respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

A medical record keeping course taken after the acts that gave rise to the charges in the Accusation and Petition to Revoke Probation, but prior to the effective date of the Decision may, in the sole discretion of the Board or its designee, be accepted towards the fulfillment of this

condition if the course would have been approved by the Board or its designee had the course been taken after the effective date of this Decision.

Respondent shall submit a certification of successful completion to the Board or its designee not later than 15 calendar days after successfully completing the course, or not later than 15 calendar days after the effective date of the Decision, whichever is later.

19. PRACTICE MONITORING. Condition No. 8 of the 2013 Decision is extended two (2) additional years. This Condition (Practice Monitoring) of the 2013 Decision continues to apply until the termination of the entire nine (9) year probationary period.

In lieu of a monitor, Respondent may participate in a professional enhancement program equivalent to the one offered by the Physician Assessment and Clinical Education Program at the University of California, San Diego School of Medicine, that includes, at minimum, quarterly chart review, semi-annual practice assessment, and semi-annual review of professional growth and education. Respondent shall participate in the professional enhancement program at Respondent's expense during the term of probation.

20. Respondent has been complying with the following terms and conditions of the 2013 Decision (Condition #2 - Controlled Substances Restriction; Condition #3 - Controlled Substances - Abstain; Condition #4 - Alcohol-Abstain; Condition #5 - Biological Fluid Testing; Condition #6 - Psychotherapy; Condition #7 - Psychiatric Evaluation; and Condition #9 - Solo Practice Prohibition). If he continues to comply with those terms and conditions, those terms and conditions will end on June 22, 2020.

21. All other standard terms and conditions of the 2013 Decision, Conditions Nos. 10 through 20, continue to apply and will continue to apply until the termination of the entire nine (9) year probationary period.

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ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Sara E. Hersh. I understand the stipulation and the effect it will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board.

DATED: 5/6/19

Ryan Curtis Peterson, M.D.
Respondent

I have read and fully discussed with Respondent Ryan Curtis Peterson, M.D. the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: 5/6/19

Sara E. Hersh
Attorney for Respondent

ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Board.

Dated: May 2, 2019

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
JUDITH T. ALVARADO
Supervising Deputy Attorney General

TAN N. TRAN
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation and Petition to Revoke Probation No. 800-2018-049496

XAVIER BECERRA
Attorney General of California
JUDITH T. ALVARADO
Supervising Deputy Attorney General
TAN N. TRAN
Deputy Attorney General
State Bar No. 197775
California Department of Justice
300 So. Spring Street, Suite 1702
Los Angeles, CA 90013
Telephone: (213) 269-6535
Facsimile: (213) 897-9395
Attorneys for Complainant

BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation and Petition to Revoke Probation Against: **Ryan Curtis Peterson, M.D.** **5363 Balboa Blvd., Ste. 445** **Encino, CA 91316** **Physician's and Surgeon's Certificate No. A 103097,** Respondent.	Case No. 8002018049496 **ACCUSATION AND PETITION TO REVOKE PROBATION**

Complainant alleges:

PARTIES

1. Kimberly Kirchmeyer (Complainant) brings this Accusation and Petition to Revoke Probation solely in her official capacity as the Executive Director of the Medical Board of California, Department of Consumer Affairs (Board).

2. On or about March 13, 2008, the Medical Board issued Physician's and Surgeon's Certificate Number A 103097 to Ryan Curtis Peterson, M.D. (Respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought herein and will expire on August 31, 2019, unless renewed.

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3. Effective June 21, 2013, in a prior disciplinary action entitled *In the Matter of the Accusation Against Ryan C. Peterson, M.D.*, case no. 06-2011-217874, before the Medical Board of California (2013 Decision), Respondent's license was placed on seven years probation, with terms and conditions. The 2013 Decision is now final and is incorporated by reference as if fully set forth, and is also attached hereto as "Exhibit A."

JURISDICTION

4. This Accusation and Petition to Revoke Probation is brought before the Medical Board of California (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

5. Section 2004 of the Code states:

"The board shall have the responsibility for the following:

"(a) The enforcement of the disciplinary and criminal provisions of the Medical Practice Act.

"(b) The administration and hearing of disciplinary actions.

"(c) Carrying out disciplinary actions appropriate to findings made by a panel or an administrative law judge.

"(d) Suspending, revoking, or otherwise limiting certificates after the conclusion of disciplinary actions.

"(e) Reviewing the quality of medical practice carried out by physician and surgeon certificate holders under the jurisdiction of the board.

"(f) Approving undergraduate and graduate medical education programs.

"(g) Approving clinical clerkship and special programs and hospitals for the programs in subdivision (f).

"(h) Issuing licenses and certificates under the board's jurisdiction.

"(i) Administering the board's continuing medical education program."

6. Section 2227 of the Code provides that a licensee who is found guilty under the Medical Practice Act may have his or her license revoked, suspended for a period not to exceed

one year, placed on probation and required to pay the costs of probation monitoring, or such other action taken in relation to discipline as the board deems proper.

7. Section 2234 of the Code, states:

"The board shall take action against any licensee who is charged with unprofessional conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not limited to, the following:

"(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the violation of, or conspiring to violate any provision of this chapter.

"(b) Gross negligence.

"(c) Repeated negligent acts. To be repeated, there must be two or more negligent acts or omissions. An initial negligent act or omission followed by a separate and distinct departure from the applicable standard of care shall constitute repeated negligent acts.

"(1) An initial negligent diagnosis followed by an act or omission medically appropriate for that negligent diagnosis of the patient shall constitute a single negligent act.

"(2) When the standard of care requires a change in the diagnosis, act, or omission that constitutes the negligent act described in paragraph (1), including, but not limited to, a reevaluation of the diagnosis or a change in treatment, and the licensee's conduct departs from the applicable standard of care, each departure constitutes a separate and distinct breach of the standard of care.

"(d) Incompetence.

"(e) The commission of any act involving dishonesty or corruption that is substantially related to the qualifications, functions, or duties of a physician and surgeon.

"(f) Any action or conduct which would have warranted the denial of a certificate.

"(g) The practice of medicine from this state into another state or country without meeting the legal requirements of that state or country for the practice of medicine. Section 2314 shall not apply to this subdivision. This subdivision shall become operative upon the implementation of the proposed registration program described in Section 2052.5.

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"(h) The repeated failure by a certificate holder, in the absence of good cause, to attend and participate in an interview by the board. This subdivision shall only apply to a certificate holder who is the subject of an investigation by the board."

8. Section 2241 of the Code states:

"(a) A physician and surgeon may prescribe, dispense, or administer prescription drugs, including prescription controlled substances, to an addict under his or her treatment for a purpose other than maintenance on, or detoxification from, prescription drugs or controlled substances.

"(b) A physician and surgeon may prescribe, dispense, or administer prescription drugs or prescription controlled substances to an addict for purposes of maintenance on, or detoxification from, prescription drugs or controlled substances only as set forth in subdivision (c) or in Sections 11215, 11217, 11217.5, 11218, 11219, and 11220 of the Health and Safety Code. Nothing in this subdivision shall authorize a physician and surgeon to prescribe, dispense, or administer dangerous drugs or controlled substances to a person he or she knows or reasonably believes is using or will use the drugs or substances for a nonmedical purpose.

"(c) Notwithstanding subdivision (a), prescription drugs or controlled substances may also be administered or applied by a physician and surgeon, or by a registered nurse acting under his or her instruction and supervision, under the following circumstances:

"(1) Emergency treatment of a patient whose addiction is complicated by the presence of incurable disease, acute accident, illness, or injury, or the infirmities attendant upon age.

"(2) Treatment of addicts in state-licensed institutions where the patient is kept under restraint and control, or in city or county jails or state prisons.

"(3) Treatment of addicts as provided for by Section 11217.5 of the Health and Safety Code.

"(d)(1) For purposes of this section and Section 2241.5, "addict" means a person whose actions are characterized by craving in combination with one or more of the following:

"(A) Impaired control over drug use.

"(B) Compulsive use.

"(C) Continued use despite harm.

"(2) Notwithstanding paragraph (1), a person whose drug-seeking behavior is primarily due to the inadequate control of pain is not an addict within the meaning of this section or Section 2241.5."

9. Section 2242 of the Code states:

"(a) Prescribing, dispensing, or furnishing dangerous drugs as defined in Section 4022 without an appropriate prior examination and a medical indication, constitutes unprofessional conduct.

"(b) No licensee shall be found to have committed unprofessional conduct within the meaning of this section if, at the time the drugs were prescribed, dispensed, or furnished, any of the following applies:

"(1) The licensee was a designated physician and surgeon or podiatrist serving in the absence of the patient's physician and surgeon or podiatrist, as the case may be, and if the drugs were prescribed, dispensed, or furnished only as necessary to maintain the patient until the return of his or her practitioner, but in any case no longer than 72 hours.

"(2) The licensee transmitted the order for the drugs to a registered nurse or to a licensed vocational nurse in an inpatient facility, and if both of the following conditions exist:

"(A) The practitioner had consulted with the registered nurse or licensed vocational nurse who had reviewed the patient's records.

"(B) The practitioner was designated as the practitioner to serve in the absence of the patient's physician and surgeon or podiatrist, as the case may be.

"(3) The licensee was a designated practitioner serving in the absence of the patient's physician and surgeon or podiatrist, as the case may be, and was in possession of or had utilized the patient's records and ordered the renewal of a medically indicated prescription for an amount not exceeding the original prescription in strength or amount or for more than one refill.

"(4) The licensee was acting in accordance with Section 120582 of the Health and Safety Code."

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10. Section 2266 of the Code states: AThe failure of a physician and surgeon to maintain adequate and accurate records relating to the provision of services to their patients constitutes unprofessional conduct.@

11. Section 725 of the Code states:

"(a) Repeated acts of clearly excessive prescribing, furnishing, dispensing, or administering of drugs or treatment, repeated acts of clearly excessive use of diagnostic procedures, or repeated acts of clearly excessive use of diagnostic or treatment facilities as determined by the standard of the community of licensees is unprofessional conduct for a physician and surgeon, dentist, podiatrist, psychologist, physical therapist, chiropractor, optometrist, speech-language pathologist, or audiologist.

"(b) Any person who engages in repeated acts of clearly excessive prescribing or administering of drugs or treatment is guilty of a misdemeanor and shall be punished by a fine of not less than one hundred dollars ($100) nor more than six hundred dollars ($600), or by imprisonment for a term of not less than 60 days nor more than 180 days, or by both that fine and imprisonment.

"(c) A practitioner who has a medical basis for prescribing, furnishing, dispensing, or administering dangerous drugs or prescription controlled substances shall not be subject to disciplinary action or prosecution under this section.

"(d) No physician and surgeon shall be subject to disciplinary action pursuant to this section for treating intractable pain in compliance with Section 2241.5."

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FIRST CAUSE FOR DISCIPLINE

(Repeated Negligent Acts- 2 Patients)

12. Respondent is subject to disciplinary action under section 2234, subdivision (c), of the Code for repeated negligent acts in the care and treatment of Patients 1 and 2.[1] The circumstances are as follows:

Patient 1

13. Patient 1 is a female who treated with respondent from approximately October 2016 to October 2017, on an almost monthly basis. Patient 1 was diagnosed with chronic pain syndrome, muscle spasm, headache, lumbago and lumbar radiculopathy.

14. During the time period between October 2016 and October 2017, Patient 1 was prescribed Norco, Promethazine with Codeine (Cough Syrup), Cyclobenzaprine, Soma, Diclofenac, and Gabapentin.[2] Between October 2016 and October 2017, CURES data was checked twice on Patient 1, and per Respondent's note, there was no evidence of aberrant activity or doctor shopping.[3] During this same time period, urine drug screens were completed on Patient 1 on three separate occasions, and the results from two of the tests (2/13/2017 and 4/17/17) were both positive for recent use of cocaine.[4]

15. Taken altogether, Respondent committed simple departures from the standard of care, and displayed a lack of knowledge, for performing inadequate periodic reviews on Patient 1's pain treatment plan, and by failing to make appropriate modifications in his treatment of Patient 1, despite her noncompliance with evidence of cocaine use and CURES data indicating aberrant behavior and doctor shopping.[5]

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[1] The patients are identified by numbers to protect their privacy.

[2] These are all dangerous controlled substances/drugs with potential for addiction.

[3] This is contrary to the evidence which shows that during same time period Patient 1 was seeing Respondent, Patient 1 was also filling prescriptions for controlled substances from multiple other doctors.

[4] Respondent did not review the 4/17/2017 urine drug test until almost two months later, when Suboxone was initiated on 6/19/2017.

[5] Respondent admitted that in hindsight, Patient 1 was "abusing," and that had he [Respondent] checked CURES in the way he should have, he [Respondent] would have known what Patient 1 was doing.

Patient 2

16. Patient 2 is a male who treated with respondent from approximately November 2014 to May 2016,[6] on a regular basis every 1-2 months except between May 2015 to September 2015. According to the medical records, there were no recorded visits between May 12, 2015 through September 10, 2015. Nevertheless, Patient 2 was provided with monthly prescriptions of controlled substances. During this time period, Respondent treated Patient 2 for various maladies including chronic low back pain, leg pain, anxiety, chronic pain syndrome, and insomnia.

17. Respondent documented limited treatment plans and objectives for Patient 2. There was no documentation of a rehabilitation program or further diagnostic evaluations and treatments. Urine drug screens were performed, but there was no record of results reviewed/discussed. There is no documentation of any completed imaging studies such as x-rays or MRI. There is no documentation of any spine surgical consultations.

18. Taken all together, Respondent committed simple departures from the standard of care in his care of Patient 2, as described above.

SECOND CAUSE FOR DISCIPLINE

(Prescribing Without Exam/Indication)

19. By reason of the facts and allegations set forth in the First Cause for Discipline above, Respondent is subject to disciplinary action under section 2242 of the Code, in that Respondent prescribed dangerous drugs to Patients 1 and 2, without an appropriate prior examination or medical indication therefor.

THIRD CAUSE FOR DISCIPLINE

(Excessive Prescribing)

20. By reason of the facts and allegations set forth in the First Cause for Discipline above, Respondent is subject to disciplinary action under section 725 of the Code, in that Respondent excessively prescribed dangerous drugs to Patients 1 and 2.

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[6] There is no documentation of a medical history and physical examination performed on Patient 2. However, Patient 2 had been under the care of a different doctor, who worked in the same office as Respondent, and who may have performed history and physical on Patient 2 before November 2014.

FOURTH CAUSE FOR DISCIPLINE

(Inadequate Records)

21. By reason of the facts and allegations set forth in the First Cause for Discipline above, Respondent is subject to disciplinary action under section 2266 of the Code, in that Respondent failed to maintain adequate and accurate records of his care and treatment of Patients 1 and 2.

FIFTH CAUSE FOR DISCIPLINE

(Prescribing to an Addict-Patient 1)

22. Respondent is subject to disciplinary action under section 2241 of the Code in that Respondent prescribed controlled substances to Patient 1, who had signs of addiction.

23. The facts and circumstances in paragraphs 12 through 14 are incorporated by reference as if set forth in full herein.

SIXTH CAUSE FOR DISCIPLINE

(Incompetence-Patient 1)

24. By reason of the facts and allegations set forth in the First Cause for Discipline, as set forth in paragraphs 12 through 14 above, Respondent is subject to disciplinary action under section 2234 (d) of the Code, in that he displayed a lack of knowledge, for performing inadequate periodic reviews on Patient 1's pain treatment plan, and by failing to make appropriate modifications in his treatment of Patient 1, despite her noncompliance with evidence of cocaine use and CURES data indicating aberrant behavior and doctor shopping.

FIRST CAUSE TO REVOKE PROBATION

(Failure to Obey All Laws)

25. At all times after the effective date of Respondent's probation, Condition 12 of the 2013 Decision stated in pertinent part:

"Respondent shall obey all federal, state and local laws, all rules governing the practice of medicine in California and remain in full compliance with any court ordered criminal probation, payments, and other orders."

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26. By reason of the facts set forth in paragraph 13 through 24 above, Respondent has failed to obey all rules governing the practice of medicine in California, thus violating his probation.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Medical Board of California issue a decision:

1. Revoking the probation that was granted by the Board in Case 06-2011-217874 and imposing the disciplinary order that was stayed, thereby revoking Physician's and Surgeon's Certificate No. A103097 issued to Respondent;

2. For the grounds stated, revoking or suspending his Physician's and Surgeon's Certificate;

3. Revoking or suspending his authority to supervise physician assistants and advanced practice nurses pursuant to section 3527 of the Code;

4. Taking such other and further action as deemed necessary and proper.

DATED: November 21, 2018

KIMBERLY KIRCHMEYER
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

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EXHIBIT A

"2013 Decision"

BEFORE THE
MEDICAL BOARD OF CALIFORNIA
STATE OF CALIFORNIA

In the Matter of the Accusation Against:	Case No. 06-2011-217874
RYAN C. PETERSON, M.D.,	OAH No. 2012040825
Physician 's and Surgeon's Certificate Number A103097	
Respondent.	

DECISION AFTER NONADOPTION

This matter came before Samuel D. Reyes, Administrative Law Judge, Office of Administrative Hearings, in Los Angeles, California, on October 16 and 17, 2012.

Doug Knoll, Deputy Attorney General, represented complainant Linda K. Whitney, Executive Director of the Medical Board of California (Board).

Theodore Cohen, Attorney at Law, represented Ryan Peterson, M.D. (Respondent).

Complainant seeks to discipline Respondent's medical license on grounds of alleged unprofessional conduct, abuse of controlled substances and dangerous drugs, and dishonest acts. Respondent stipulated to all the facts in the Accusation, and readily acknowledged that he had abused controlled substances and dangerous drugs. He presented evidence in support of his rehabilitation and continued licensure.

Oral and documentary evidence, and evidence by oral stipulation on the record, was received at the hearing and the matter was submitted for decision on October 17, 2012.

The proposed decision of the administrative law judge was submitted to Panel B of the Medical Board of California (hereafter "Board") on January 31, 2013. After due consideration thereof, the Board declined to adopt the proposed decision and thereafter on February 15, 2013 issued an Order of Non-adoption notifying the parties of the final date to submit requests for oral arguments. Having timely received Respondent's request for oral arguments, on March 28, 2013, the Board issued a Notice of time for Oral Argument. Oral argument was heard on April 25, 2013, and the Board voted on the matter that same day. The time for filing written argument in this matter having expired, written argument having been filed by both parties and such written arguments, together with the entire record, including the transcript of said hearing, having been read and

considered, pursuant to Government Code Section 11517, the Board hereby makes the following decision and order:

FACTUAL FINDINGS

1. Complainant filed the Accusation in her official capacity.

2. On March 13, 2008, the Board issued Physician's and Surgeon's Certificate Number A 103097 to Respondent. The certificate has been in effect since then, and expires on August 31, 2013, unless renewed. The certificate has not been previously disciplined.

3. On January 4, 2012, pursuant to stipulation, Respondent's certificate was suspended on an interim basis pursuant to Government Code section 11529, pending the outcome of the instant proceedings.[1]

4. Respondent received his medical degree from George Washington University in Washington, D.C. He completed a three-year anesthesia residency at Cornell University in Ithaca, New York, and a one year pain management fellowship at the University of California, Los Angeles. Respondent is board-certified in anesthesiology and pain management.

5. Respondent was very candid and forthright at the hearing about his substance abuse history. He grew up in a small town in Minnesota. He tried alcohol as a teenager, but did not find it appealing. He attended college at Arizona State University in Tempe, Arizona, where he graduated in 1998. He was diagnosed with cancer in his senior year, and his experience impacted his decision to specialize in anesthesia and pain management. In 1998, at age 24, as he started medical school in the District of Columbia, Respondent openly acknowledged that he was gay. Approximately two years later, in the Summer of 2000, he started using methamphetamine (meth), in a form commonly referred to as crystal meth, and gammahydroxybutyric acid (GHB). GHB, often referred to as the date rape drug, is an intoxicant that Respondent used to counter the speed-inducing effect of meth. Starting in 2005, Respondent started using Xanax, an anti-anxiety medication or benzodiazepine, to achieve the same results as GHB. He used the drugs recreationally, noting that they were prevalent in the gay community. Respondent continued to periodically use the two substances throughout medical school and during his residency and fellowship, on weekends when not in school or working.

6. Respondent's use of drugs increased in type of substance and dosage after joining the labor force. His first employment, from approximately June 2009 until October 2010, was with a five-physician, hospital-based pain management and anesthesia group. He was fired from this job after it was discovered that he diverted drugs for his personal use.

[1] As part of his stipulated interim suspension, Respondent agreed to waive any time limits contained in the statute and to continued suspension pending Board review of the instant matter.

7. In October 2010, he joined KJD Anesthesia Group (KJD), which provided anesthesiologists to about 20 hospitals and surgery centers. Respondent was one of about 20 independent contractors, and planned to start his own private pain management practice.

8. Respondent's meth use increased in 2010, as he started to ingest it intravenously and had two to three binges per month. He stared using Fentanyl, a synthetic opiate analgesic, in April 2010, to come down form meth binges. His tolerance for Fentanyl increased, and from May 2010 through November 2010 he was injecting 1000 micrograms (mcg) on a daily basis. In Spring 2011, Respondent was injecting 100 to 200 mcg of Fentanyl two to three times per week, even when not binging on meth. He also occasionally used the sedative-hypnotic Ambien or other benzodiazepines, such as midazolam, to come down from meth binges.

9. Respondent was hospitalized on three occasions due to overdoses of GHB.

10. On May 1, 2011, Respondent self-injected propofol, a short-acting, fast-onset hypnotic sedative sold under the brand Diprivan. It is used in surgical procedures prior to other anesthetics, and Respondent had administered it on thousands of occasions. Respondent used it to take away the anxiety of meth, and did so on multiple occasions over the following 13 days. He repeatedly injected it after work, at the rate of about 70 milligrams every 45 minutes. Respondent was involved in three car accidents, two of which he described as "fender benders" over a four-day period while under the influence of propofol, although neither involved another person or vehicle.

11. On May 13, 2011, Respondent injected propofol while working at the Encino Plaza surgical center, during a lunch break between the morning surgery and the afternoon procedure. He administered anesthesia to one patient after having injected the propofol.

12. Respondent realized that he had "crossed a line' by using propofol at work. Although he was glad the patient had not suffered any actual harm, he was aware that he had placed someone other than himself in harm's way. Before this he had been trying to quit on his own, to no avail. Before May 13, 2011, Respondent believed that he could stop using drugs on his own, but after this incident Respondent concluded that he needed help. He did not return to work on May 14, 2011, and started consulting others and making calls to enter a rehabilitation program.

13. One of those he consulted was Matthew A. Torrington, M.D. (Torrington), an addiction medicine specialist. Dr. Torrington concurred with Respondent's plan to enter an inpatient rehabilitation program, and agreed to provide post-discharge outpatient treatment.

14. On May 19, 2011, Respondent entered the Hezelden drug rehabilitation program, in Center City, Minnesota, one of the oldest and most-respected rehabilitation programs in the country. It was a 90-day inpatient program, and Respondent was permitted to

complete the last 60 days of the program at another preeminent facility, the Betty Ford Center in Rancho Mirage, California. He successfully completed the programs.

15. In search of continuing rehabilitation treatment, on August 15, 2011, Respondent enrolled in the Pacific Assistance Group (PAG), a professional support and monitoring program for post-treatment support and monitoring. The group specializes in providing services to health professionals and offers group support groups and random monitoring for substances of abuse. A principal in the group, James Conway, M.F.T (Conway), ran a similar program, the Board's Diversion Program, which is no longer in existence. Respondent attended a group meeting on August 21, 2011, at which he reported that he was focused on his recovery and that he was attending daily meetings.

16. Respondent commenced psychotherapy with James A. Peck, Psy.D. (Peck) on August 17, 2011. Dr. Peck has extensive experience in, and specializes in, the treatment of individuals suffering from substance abuse. He was involved in a five-year study of pharmacological and behavioral interventions for meth abusers.

17. Respondent returned to work for KJD, on a part-time basis, on August 22, 2011.

18. On August 25, 2011, Respondent used Fentanyl and propofol at home after work. As he explained at the hearing, at the time he believed that he had control of his disease and that he could take a "couple of weeks off" before starting the PAG drug monitoring. On August 26, 2011, a nurse reported to Michael Kelly, M.D. (Kelly), a principal at KJD who was also at the surgery center where Respondent was working, that she had seen needle marks on Respondent. Dr. Kelly was unable to contact Respondent by phone, and immediately suspended Respondent from KJD. Dr. Kelly also reported the matter to Conway. Conway was able to reach Respondent on August 29, 2011, and Respondent admitted his relapse.

19. On August 29, 2011, Respondent went into one of the surgery centers where he had worked, the Modern Institute of Plastic Surgery in Beverly Hills, California, and stole two 50 milliliter bottles of propofol. He went home and injected the entire quantity over the next few hours.

20. Respondent realized that he "had not gotten it," and that he needed to return to an intensive inpatient program. On September 1, 2011, Respondent returned to the Betty Ford Center, where he remained for 30 days.

21. At the hearing, Respondent characterized the four-day relapse as his rock bottom moment, an event worse than his 12-year history of abuse. He referred to what followed as his surrender into full compliance with his rehabilitation program. His outlook at the time, which he has carried to the present, is that he needs to remain clean and sober in order to save his life. Taking one day at a time, Respondent has remained clean and sober. He has assembled a substantial support team as he seeks to completely change his life.

22. In October 2011, Respondent went to the Board and reported his substance abuse problem, which started a process that eventually led to the interim suspension of his license and to the instant proceeding.

23. Respondent broke free of his old apartment and moved into a sober living home, operated by the La Fuente Hollywood Treatment Center (La Fuente), where he remained from October 2011 until February 2012. Manuel Rodriguez (Rodriguez), La Fuente's executive director, testified that the home had strict rules, counseling, and drug testing. Respondent was an active participant in the program, one who completely threw himself into recovery. Rodriguez soon noticed growth in Respondent and they remain in contact. Respondent volunteers at the home to speak to others about his experience.

24. a. Respondent has been under the care of Dr. Torrington since his September 2011 discharge from the Betty Ford Center. Dr. Torrington was aware of Respondent's other supports and devised a multimodal treatment plan that would address all aspects of recovery, including biological, psychological, social, spiritual, and nutritional. Dr. Torrington is in charge of the biological or medical aspect, and meets with Respondent on a weekly basis. Dr. Torrington's key tool is the relatively new drug naltrexone, sold under the brand name Vivitrol, which was approved in 2010 or 2011 for the treatment of opiate addiction. The medication blocks the brain's receptors for opiates, negating the drug's effects. Starting in December 2011, Dr. Torrington has intramuscularly injected the long-acting medication once per month. Dr. Torrington also performs random testing for a panel of 12 drugs of abuse.

b. Respondent has been compliant with Dr. Torrington's treatment plan, and has never missed an appointment. In fact, in his testimony Dr. Torrington referred to Respondent as part of the one percent of patients who follows all his physician's directions. In his opinion, Respondent's compliance and extensive program make the risk of relapse very small.

25. a. Respondent has regular, mostly weekly, sessions with Dr. Peck, where he probes deeper into issues that may have led or contributed to his addiction. Additional sessions have been conducted if particularly stressful events were anticipated, like Respondent's first trip back to his home town.

b. Dr. Peck, who is familiar with Respondent's entire rehabilitation program, has never seen a more comprehensive program and has never seen anyone more committed to recovery than respondent. He spoke favorably of Respondent's progress and the insights he has gained. Given Respondent's progress and abstinence, Dr. Peck's current diagnosis of Respondent is substance dependence, in sustained full remission. In his opinion, Respondent can safely return to the practice of anesthesia.

26. a. Respondent also returned to PAG after his discharge from the Betty Ford Center and continues to participate in the program. He attends two group meetings per week, at which Conway acts as the facilitator for the participating physicians.

b. Conway testified at the hearing and corroborated Respondent's testimony about his participation in PAG and his commitment to sobriety. He referred to Respondent as a "high level participant," very candid and forthcoming in discussions of his addiction. Conway, like all others who had the opportunity to see Respondent before and after his relapse, described a significant difference in Respondent. After the second stay at the Betty Ford Center, Respondent demonstrated an attitude of "total surrender" to the program, and has enthusiastically followed all recommendations. As an example, Conway noted that during his first stint, Respondent had an attitude of "negotiation," and resisted the suggestion that he try Vivitrol. In his opinion, Respondent's prognosis for continued sobriety is good.

27. As part of the PAG program, Respondent submits to regular bodily fluids testing. The testing has included hair testing for propofol. Significantly, given one of his drugs of choice, a newly developed urine test for a metabolite of propofol has been added to Respondent's test regimen. He has never tested positive for nay controlled substance or dangerous drug.

28. In addition to group meetings as part of the PAG program, Respondent regularly attends approximately two meetings of Alcoholics Anonymous (AA) per day, every day of the week.

29. a. Respondent has a sponsor, Erik Hymon (Hymon), with whom he is in daily contact. They meet at least twice each week. Respondent is also in daily contact with at least ten others working to maintain sobriety, and in regular contact with many more, facts corroborated by several witnesses who are in regular contact with him.

b. Hymon, who has eight years sobriety, has been Respondent's sponsor for about 1.5 years. Hymon is very strict and gives specific directives to Respondent to test his commitment to recovery. Respondent has completed each task, and has done many others on his own, such as helping at meetings. Respondent is working hard to maintain his sobriety, and in Hymon's view, is doing so honestly.

30. Respondent has also started to contribute to the sobriety of others. He is a sponsor. He volunteers to perform tasks at AA meetings. Once each month, Respondent returns to the Betty Ford Center to share his experience with others. He also speaks at Veteran's Administration hospitals. He regularly attends meetings, including a yearly convention, of an organization of recovering doctors, the International Doctors in Alcoholics Anonymous.

31. Respondent presented an impressive number of witnesses who believe in his recovery and who are part of his support group. Steven O'Day, M.D., who is also a participant in PAG, noticed that he relapse deeply impacted Respondent, and has seen a renewed emphasis on recovery and a changed person since the return form the second stay at the Betty Ford Center. Eight other witnesses, Stephen Beebe, Timothy Carpenter, Scott Cullens, Julie Danahan, Shawn Estebo, Mark Jackson, Kayce Jesse, and Carlos Ortiz, attest to Respondent's commitment to recovery. Letters were received in evidence

from 17 additional individuals, most of who are in recovery, also attesting to Respondent's commitment to remain clean and sober.

32. Dr. Kelly described Respondent as a brilliant anesthesiologist, one possessing the rare combination of good bedside manner and competency. Dr. Kelly understands that addiction is an illness and is willing to re-hire Respondent if his license is reinstated. Dr. Kelly plans to take measures to ensure patient safety. Dr. Kelly noted that some of the surgery centers have inquired about Respondent and are willing to allow him to practice in their facilities.

33. Respondent is genuinely remorseful for his substance abuse and his conduct to support his habit. He does not feel victimized by the Board's actions, but understands they are necessary for the protection of the public.

34. In a report dated February 15, 2012, which was received as direct evidence pursuant to stipulation, David J. Sheffner, M.D. (Sheffner), a psychiatrist retained by the Board to render opinions regarding Respondent's fitness to practice medicine, opined that Respondent should not be allowed to be in a professional position where he has access to narcotics. In his opinion, "After the passage of time/considerable treatment/observation, should he at some point petition the Board to be able to practice medicine consistent with the safety and welfare of patients, the key would be to ensure external/objective controls and observation, i.e., as would be included in the details of long-term conditions of his probation (e.g., such requirements as random testing, non-exposure to drugs of abuse, close work site monitoring, no solo practice, treatment with Naltrexone, etc.) [¶] At a minimum, a Board order for treatment/rehabilitation program for chemical dependence would be a necessary requirement (i.e., in conjunction with all the other elements of his future probation) for his [sic] to practice medicine safely (and suffice it to say that a major component of such rehab[ilitation] programs are forms of psychotherapy." (Exh. 5, at p.4.)

35. Dr. Sheffner did not have the benefit of the substantial evidence of rehabilitation presented at the hearing. Given the date of his report, his information was limited to Respondent's significant substance abuse history and his initial rehabilitation efforts. In fact, Respondent has been absent from the practice of medicine for more than one year and has implemented many of Dr. Sheffner's recommendations, such as random testing and psychotherapy. Because of the factual limitations that underlie Dr. Sheffner's opinion and the substantial rehabilitation efforts undertaken by Respondent, the opinions of those with more recent and extensive knowledge of Respondent's condition, Drs. Peck and Torrington and Conway, have been given greater weight.

36. a. Expert testimony was received on the subject of relapse in general and Respondent's likelihood of relapse in particular. Dr. Sheffner opined that "Given the history of the nature, magnitude, and chronicity of Dr. Peterson's problems with substance dependency/abuse, he remains at high risk of readdiction/ the prognosis is guarded, but it is impossible to predict the future with any more specificity."

b. Respondent's experts were all in agreement that relapse is characteristic of addiction. In Conway's opinion, relapse is integrated into the very definition of addiction. Relapses are not uncommon and the best treatment option is to prepare for them. However, the risk of relapse diminishes after a person has attained six months of sobriety. The prognosis for Respondent is good, in part because his relapse, which he referred to as a "therapeutic relapse," was so severe, intense, and, ultimately, brief. Echoing Conway, Dr. Peck testified that nobody can guarantee the absence of relapses, but the longer the period of abstinence the better the prognosis, as in Respondent's case. In Dr. Torrington's opinion, the risk of relapse in Respondent's case was very small, and the potential benefits of his knowledge and experience in anesthesiology far outweighed such risk.

37. After due consideration of the experts' opinions and the evidence of Respondent's rehabilitation, which is substantial at such an early stage of recovery, it is concluded that Respondent is presently fit to practice medicine, with appropriate safeguards to ensure public safety, albeit not anesthesia at this time. Respondent's commitment to his recovery was amply demonstrated by his testimony at the hearing, and, more importantly, by his actions outside the courtroom. Actions he has taken, such as random substance monitoring, naltrexone injections, 12-step meetings, and psychotherapy, have not only demonstrated his commitment to sobriety, but will continue to constitute integral parts of the terms and conditions of licensure.

LEGAL CONCLUSIONS

1. Complainant bears the burden of proving, by clear and convincing evidence to a reasonable certainty, that cause exists to discipline respondent's physician's and surgeon's certificate. (*Ettinger v. Board of Medical Quality Assurance* (1985) 135 Cal.App.3d 853, 856; *James v. Board of Dental Examiners* (1985) 172 Cal.App.3d 1096, 1104.) This means that he burden rests on Complainant to establish the charging allegations by proof that is clear, explicit and unequivocal – so clear as to leave no substantial doubt, and sufficiently strong to command the unhesitating assent of every reasonable mind. (*In re Marriage of Weaver* (1990) 224 Cal.App.3d 478.)

2. Cause exists to discipline Respondent's license pursuant to section 2239 in that he used a controlled substance, methamphetamine, and dangerous drugs, Fentanyl and propofol, to such extent and in such a manner as to be dangerous or injurious to himself and others, by reason of factual finding numbers 5 through 11, 18, and 19.

3. Cause exists to discipline Respondent's license pursuant to section 2234, subdivision (e), in that he committed an act of dishonesty and corruption substantially related to the qualifications, functions, and duties of a physician, by reason of factual finding number 19.

4. Cause exists to discipline Respondent's license pursuant to section 2234, in that he engaged in unprofessional conduct, by reason of factual finding numbers 5 through 11, 18, and 19, and legal conclusion numbers 2 and 3.

5. The purpose of licensing statutes and administrative proceedings enforcing licensing requirements is not penal but public protection. (*Hughes v. Board of Architectural Examiners* (1998) 17 Cal.4th 763, 784-786; *Bryce v. Board of Medical Quality Assurance* (1986) 184 Cal.App.3d 1471, 1476).

6. All evidence presented at the hearing has been considered. Respondent has a long-standing substance abuse problem, which has involved multiple substances, and he has suffered a relapse. He has only been clean and sober since August 30, 2011, and appears to be committed to remain so. He has a strong support network, and is on constant vigilance to prevent relapse. Despite these efforts, the likelihood of relapse still exists especially given the nature of his practice as an anesthesiologist with the ability to work at multiple locations. As such, safeguards must be put in place to diminish the chances of relapse and ensure protection of the public. The order that follows is therefore necessary and sufficient for the protection of the public.

Deviations from the model language found in the Board's Manual of Model Disciplinary Orders and Disciplinary Guidelines (2011) have been made to take into account the unique facts and circumstances of this case. For instance, given Respondent's extensive substance abuse history, Respondent must demonstrate sobriety for at least thirty-six (36) months beyond his clean and sober date of August 30, 2011 before he can be cleared to return to the practice of anesthesia. If he is successful, and on confirmation by the Board, the soonest he can return to the practice of anesthesia would be September 1, 2014.

ORDER

Physician's and Surgeon's Certificate No. A 103097 issued to Respondent Ryan C. Peterson, M.D. is hereby revoked. However, the revocation is stayed and Respondent's certificate is placed on probation for seven (7) years upon the following terms and conditions.

1. Respondent may not practice anesthesia until the Board has verified that he has achieved thirty-six (36) months of sobriety from August 30, 2011.

2. Controlled Substances – Restriction.

Respondent shall not order, prescribe, dispense, administer, furnish, or possess any controlled substances as defined in the California Uniform Controlled Substances Act until he has achieved an additional 36 months of sobriety from August 30, 2011.

Respondent shall not issue an oral or written recommendation or approval to a patient or a patient's primary caregiver for the possession or cultivation of marijuana for the personal medical purposes of the patient within the meaning of Health and Safety Code section 11362.5. If Respondent forms the medical opinion, after an appropriate prior examination and a medical indication, that a patient's medical condition may

benefit from the use of marijuana, Respondent shall so inform the patient and shall refer the patient to another physician who, following an appropriate prior examination and a medical indication, may independently issue a medically appropriate recommendation or approval for the possession or cultivation of marijuana for the personal medical purposes of the patient within the meaning of Health and Safety Code section 11362.5. In addition, Respondent shall inform the patient or the patient's primary caregiver that respondent is prohibited from issuing a recommendation or approval for the possession or cultivation of marijuana for the personal medical purposes of the patient and that the patient or the patient's primary caregiver may not rely on Respondent's statements to legally possess or cultivate marijuana for the personal medical purposes of the patient. Respondent shall fully document in the patient's chart that the patient or the patient's primary caregiver was so informed. Nothing in this condition prohibits Respondent from providing the patient or the patient's primary caregiver information about the possible medical benefits resulting from the use of marijuana.

3. Controlled Substances – Abstain From Use.

Respondent shall abstain completely from the personal use or possession of controlled substances as defined in the California Uniform Controlled Substances Act, dangerous drugs as defined by Business and Professions Code section 4022, and any drugs requiring a prescription. This prohibition does not apply to medications lawfully prescribed to respondent by another practitioner for a bona fide illness or condition.

Within 15 calendar days of receiving any lawfully prescribed medications, Respondent shall notify the Board or its designee of the: issuing practitioner's name, address, and telephone number; medication name, strength, and quantity; and issuing pharmacy name, address, and telephone number.

If Respondent has a confirmed positive biological fluid test for any substance (whether or not legally prescribed) and has not reported the use to the Board or its designee, Respondent shall receive a notification from the Board or its designee to immediately cease the practice of medicine. The Respondent shall not resume the practice of medicine until final decision on an accusation and/or a petition to revoke probation. An accusation and/or petition to revoke probation shall be filed by the Board within 15 days of the notification to cease practice. If the Respondent requests a hearing on the accusation and/or petition to revoke probation, the Board shall provide the Respondent with a hearing within 30 days of the request, unless the Respondent stipulates to a later hearing. A decision shall be received from the Administrative Law Judge or the Board within 15 days unless good cause can be shown for the delay. The cessation of practice shall not apply to the reduction of the probationary time period.

If the Board does not file an accusation or petition to revoke probation within 15 days of the issuance of the notification to cease practice or does not provide Respondent with a hearing within 30 days of such a request, the notification of cease practice shall dissolve.

4. Alcohol – Abstain From Use.

Respondent shall abstain completely from the use of products or beverages containing alcohol.

If Respondent has a confirmed positive biological fluid test for alcohol, Respondent shall receive a notification form the Board or its designee to immediately cease the practice of medicine. The Respondent shall not resume the practice of medicine until final decision on an accusation and/or a petition to revoke probation. An accusation and/or petition to revoke probation shall be filed by the Board within 15 days of the notification to cease practice. If the Respondent requests a hearing on the accusation and/or petition to revoke probation, the Board shall provide the Respondent with a hearing within 30 days of the request, unless the Respondent stipulates to a later hearing. A decision shall be received from the Administrative Law Judge or the Board within 15 days unless good cause can be shown for the delay. The cessation of practice shall not apply to the reduction of the probationary time period.

If the Board does not file an accusation or petition to revoke probation within 15 days of the issuance of the notification to cease practice or does not provide Respondent with a hearing within 30 days of such a request, the notification of cease practice shall be dissolved.

5. Biological Fluid Testing.

Respondent shall immediately submit to biological fluid testing, at Respondent's expense, upon request of the Board or its designee. "Biological fluid testing" may include, but is not limited to, urine, blood, breathalyzer, hair follicle testing, or similar drug screening approved by the Board or its designee. Prior to practicing medicine, Respondent shall contract with a laboratory or service approved in advance by the Board or its designee that will conduct random, unannounced, observed, biological fluid testing. The contract shall require results of the tests to be transmitted by the laboratory or service directly to Board or its designee within four hours of the results becoming available. Respondent shall maintain this laboratory or service contract during the period of probation.

A certified copy of any laboratory test result may be received in evidence in any proceedings between the Board and Respondent.

If Respondent fails to cooperate in a random biological fluid testing program within the specified time frame, Respondent shall receive a notification from the Board or its designee to immediately cease the practice of medicine. The Respondent shall not resume the practice of medicine until final decision on an accusation and/or a petition to revoke probation. An accusation and/or petition to revoke probation shall be filed by the Board within 15 days of the notification to cease practice. If the Respondent requests a hearing on the accusation and/or petition to revoke probation, the board shall provide the

Respondent with a hearing within 30 days of the request, unless the Respondent stipulates to a later hearing. A decision shall be received from the Administrative Law Judge or the Board within 15 days unless good cause can be shown for the delay. The cessation of practice shall not apply to the reduction of the probationary time period.

If the board does not file an accusation or petition to revoke probation within 15 days of the issuance of the notification to cease practice or does not provide Respondent with a hearing within 30 days of such a request, the notification of cease practice shall be dissolved.

6. Psychotherapy.

Respondent shall continue in psychotherapy with Dr. Peck, or if Dr. Peck is no longer available, with a California-licensed board certified psychiatrist or a licensed psychologist who has a doctoral degree in psychology and at least five years of postgraduate experience in the diagnosis and treatment of emotional and mental disorders. Upon approval, Respondent shall undergo and continue psychotherapy treatment, including any modifications to the frequency of psychotherapy, until the Board or its designee deems that no further psychotherapy is necessary.

The psychotherapist shall consider any information provided by the Board or its designee and any other information the psychotherapist deems relevant and shall furnish a written evaluation report to the Board or its designee. Respondent shall cooperate in providing the psychotherapist any information and documents that the psychotherapist may deem pertinent.

Respondent shall have the treating psychotherapist submit quarterly status reports to the Board or its designee. The Board or its designee may require Respondent to undergo psychiatric evaluations by a Board-appointed board certified psychiatrist. If, prior to the completion probation, Respondent is found to be mentally unfit to resume the practice of medicine without restrictions, the Board shall retain continuing jurisdiction over Respondent's license and the period of probation shall be extended until the Board determines that Respondent is mentally fit to resume the practice of medicine without restrictions.

Respondent shall pay the cost of all psychotherapy and psychiatric evaluations.

7. Psychiatric Evaluation.

Within 30 calendar days of the effective date of this Decision, and on whatever periodic basis thereafter may be required by the Board or its designee, Respondent shall undergo and complete a psychiatric evaluation (and psychological testing, if deemed necessary) by a Board-appointed board certified psychiatrist, who shall consider any information provided by the Board or designee and any other information the psychiatrist deems relevant, and shall furnish a written evaluation report to the Board or its designee. Psychiatric evaluations conducted prior to the effective date of the Decision shall not be

accepted towards the fulfillment of this requirement. Respondent shall pay the cost of all psychiatric evaluations and psychological testing.

Respondent shall comply with all restrictions or conditions recommended by the evaluating psychiatrist within 15 calendar days after being notified by the Board or its designee.

8. Practice Monitoring.

Within 30 calendar days of the effective date of this Decision, Respondent shall submit to the Board or its designee for prior approval as a practice monitor, the name and qualifications of one or more licensed physicians and surgeons whose licenses are valid and in good standing, and who are preferably American Board of Medical Specialties (ABMS) certified. A monitor shall have no prior or current business or personal relationship with Respondent, or other relationship that could reasonably be expected to compromise the ability of the monitor to render fair and unbiased reports to the Board, including but not limited to any form of bartering, shall be in Respondent's field of practice, and must agree to serve as Respondent's monitor. Respondent shall pay all monitoring costs. Dr. Kelly, Respondent's former employer, may not serve as his practice monitor.

The Board or its designee shall provide the approved monitor with copies of the Decision, and Accusations, and a proposed monitoring plan. Within 15 calendar days of receipt of the Decision, Accusation, and proposed monitoring plan, the monitor shall submit a signed statement that the monitor has read the Decision, and Accusation, fully understands the role of a monitor, and agrees or disagrees with the proposed monitoring plan. If the monitor disagrees with the proposed monitoring plan, then monitor shall submit a revised monitoring plan with the signed statement for approval by the Board or its designee.

Within 60 calendar days of the effective date of this Decision, and continuing throughout probation, Respondent's practice shall be monitored by the approved monitor. Respondent shall make all records available for immediate inspection and copying on the premises by the monitor at all times during business hours and shall retain the records for the entire term of probation.

If Respondent fails to obtain approval of a monitor within 60 calendar days of the effective date of the Decision, Respondent shall receive a notification from the Board or its designee to cease the practice of medicine within three (3) calendar days after being so notified. Respondent shall cease the practice of medicine until a monitor is approved to provide monitoring responsibility.

The monitor shall submit a quarterly written report to the Board or its designee which includes an evaluation of Respondent's performance, indicating whether Respondent's practices are within the standards of practice of anesthesia, and whether Respondent is practicing medicine safely. It shall be the sole responsibility of

Respondent to ensure that the monitor submits the quarterly written reports to the Board or its designee within 10 calendar days after the end of the preceding quarter.

If the monitor resigns or is no longer available, Respondent shall, within 5 calendar days of such resignation or unavailability, submit to the Board or its designee, for prior approval, the name and qualifications of a replacement monitor who will be assuming that responsibility within 15 calendar days. If Respondent fails to obtain approval of a replacement monitor within 60 calendar days of the resignation or unavailability of the monitor, Respondent shall receive a notification from the Board or its designee to cease the practice of medicine within three (3) calendar days after being so notified. Respondent shall cease the practice of medicine until a replacement monitor is approved and assumes monitoring responsibilities.

In lieu of a monitor, Respondent may participate in a professional enhancement program equivalent to the one offered by the Physician Assessment and Clinical Education Program at the University of California, San Diego School of Medicine, that includes, at minimum, quarterly chart review, semi-annual practice assessment, and semi-annual review of professional growth and education. Respondent shall participate in the professional enhancement program at Respondent's expense during the term of probation.

9. Solo Practice.

Respondent is prohibited from engaging in the solo practice of medicine. Prohibited solo practice includes, but is not limited to, a practice where: 1) Respondent merely shares office space with another physician but is not affiliated for purposes of providing patient care, or 2) Respondent is the sole physician practitioner at that location.

If Respondent fails to establish a practice with another physician or secure employment in an appropriate practice setting within 60 calendar days of the effective date of this Decision, Respondent shall receive a notification from the Board or its designee to cease the practice of medicine within three (3) calendar days after being so notified. Respondent shall not resume practice until an appropriate practice setting is established.

If, during the course of the probation, the Respondent's practice setting changes and the Respondent is no longer practicing in a setting in compliance with this Decision, the Respondent shall notify the Board or its designee within 5 calendar days of the practice setting change. If Respondent fails to establish a practice with another physician or secure employment in an appropriate practice setting within 60 calendar days of the practice setting change, Respondent shall receive a notification from the Board or tis designee to cease the practice of medicine within three (3) calendar days after being so notified. The Respondent shall not resume practice until an appropriate practice setting is established.

10. Notification.

Within seven (7) days of the effective date of this Decision, Respondent shall provide a true copy of this Decision and Accusation to the Chief of Staff or the Chief Executive Officer at every hospital where privileges or membership are extended to Respondent, at any other facility where Respondent engages in the practice of medicine, including all physician and locum tenens registries or other similar agencies, and to the Chief Executive Officer at every insurance carrier which extends malpractice insurance coverage to Respondent. Respondent shall submit proof of compliance to the Board or its designee within 15 calendar days.

11. Supervision of Physician Assistants.

During probation, Respondent is prohibited from supervising physician assistants.

12. Obey All Laws.

Respondent shall obey all federal, state and local laws, all rules governing the practice of medicine in California and remain in full compliance with any court-ordered criminal probation, payments, and other orders.

13. Quarterly Declarations.

Respondent shall submit quarterly declarations under penalty of perjury on forms provided by the Board, stating whether there has been compliance with all the conditions of probation. Respondent shall submit quarterly declarations not later than 10 calendar days after the end of the preceding quarter.

14. General Probation Requirements.

Respondent shall comply with the Board's probation unit and all terms and conditions of this Decision. Respondent shall, at all times, keep the Board informed of Respondent's business and residence addresses, email address (if available), and telephone number. Changes of such addresses shall be immediately communicated in writing to the Board or its designee. Under no circumstances shall a post office box serve as an address of record, except as allowed by Business and Professions Code section 2021, subdivision (b). Respondent shall not engage in the practice of medicine in Respondent's or a patient's place of residence, unless the patient resides in a skilled nursing facility or other similar licensed facility. Respondent shall maintain a current and renewed California physician's and surgeon's license.

Respondent shall immediately inform the Division or its designee, in writing, of travel to any areas outside the jurisdiction of California which lasts, or is contemplated to last, more than 30 calendar days.

In the event Respondent should leave the State of California to reside or to practice Respondent shall notify the Board or its designee in writing 30 calendar days prior to the dates of departure and return.

15. Interview with the Board or Its Designee.

Respondent shall be available in person for interviews either at Respondent's place of business or at the probation unit office, with the Board or its designee upon request at various intervals and either with or without prior notice throughout the term of probation.

16. Non-practice While on Probation.

Respondent shall notify the Board or its designee in writing 15 calendar days of any periods of non-practice lasting more than 30 calendar days and within 15 calendar days of Respondent's return to practice. Non-practice is defined as any period of time Respondent is not practicing medicine in California as defined in Business and Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month in direct patient care, clinical activity or teaching, or other activity as approved by the Board. All time spent in an intensive training program which has been approved by the Board or its designee shall not be considered non-practice. Practicing medicine in another state of the United States or Federal jurisdiction while on probation with the medical licensing authority of that state or jurisdiction shall not be considered non-practice. A Board-ordered suspension of practice shall not be considered as a period of non-practice.

In the event Respondent's period of non-practice while on probation exceeds 18 calendar months, Respondent shall successfully complete a clinical training program that meets the criteria of Condition 18 of the current version of the Board's "Manual of Model Disciplinary Orders and Disciplinary Guidelines" prior to resuming the practice of medicine.

Respondent's period of non-practice while on probation shall not exceed two (2) years.

Periods of non-practice will not apply to the reduction of the probationary term.

Periods of non-practice will relieve respondent of the responsibility to comply with the probationary terms and conditions with the exception of this condition and the following terms and conditions of probation: Obey All Laws; and General Probation Requirements.

17. Completion of Probation.

Respondent shall comply with all financial obligations (e.g., restitution, probation costs) not later than 120 calendar days prior to the completion of probation. Upon successful completion of probation, Respondent's certificate shall be fully restored.

18. Violation of Probation.

Failure to fully comply with any term or condition of probation is a violation of probation. If Respondent violates probation in any respect, the Board, after giving Respondent notice and the opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed. If an Accusation or Petition to Revoke Probation, or an Interim Suspension Order is filed against Respondent during probation, the Board shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final.

19. License Surrender.

Following the effective date of this Decision, if Respondent ceases practicing due to retirement or health reasons or is otherwise unable to satisfy the terms and conditions of probation, Respondent may request to surrender his or her license. The Board reserves the right to evaluate Respondent's request and to exercise its discretion in determining whether or not to grant the request, or to take any other action deemed appropriate and reasonable under the circumstances. Upon formal acceptance of the surrender, Respondent shall within 15 calendar days deliver respondent's wallet and wall certificate to the board or its designee and respondent shall no longer practice medicine. Respondent will no longer be subject to the terms and conditions of probation. If Respondent re-applies for a medical license, the application shall be treated as a petition for reinstatement or a revoked certificate.

20. Probation Monitoring Costs.

Respondent shall pay the costs associated with probation monitoring each and every year of probation, as designated by the Board, which may be adjusted on an annual basis. Such costs shall be payable to the Medical Board of California and delivered to the Board or its designee no later than January 31 of each calendar year.

This decision shall become effective at 5 p.m. on June 21, 2013.

IT IS SO ORDERED this 22nd day of May, 2013.

Reginald Low, M.D., Chairperson
Panel B
Medical Board of California

EXHIBIT B

2013 DECISION

BEFORE THE
MEDICAL BOARD OF CALIFORNIA
STATE OF CALIFORNIA

In the Matter of the Accusation Against:	Case No. 06-2011-217874
RYAN C. PETERSON, M.D.,	OAH No. 2012040825
Physician 's and Surgeon's Certificate Number A103097	
Respondent.	

DECISION AFTER NONADOPTION

This matter came before Samuel D. Reyes, Administrative Law Judge, Office of Administrative Hearings, in Los Angeles, California, on October 16 and 17, 2012.

Doug Knoll, Deputy Attorney General, represented complainant Linda K. Whitney, Executive Director of the Medical Board of California (Board).

Theodore Cohen, Attorney at Law, represented Ryan Peterson, M.D. (Respondent).

Complainant seeks to discipline Respondent's medical license on grounds of alleged unprofessional conduct, abuse of controlled substances and dangerous drugs, and dishonest acts. Respondent stipulated to all the facts in the Accusation, and readily acknowledged that he had abused controlled substances and dangerous drugs. He presented evidence in support of his rehabilitation and continued licensure.

Oral and documentary evidence, and evidence by oral stipulation on the record, was received at the hearing and the matter was submitted for decision on October 17, 2012.

The proposed decision of the administrative law judge was submitted to Panel B of the Medical Board of California (hereafter "Board") on January 31, 2013. After due consideration thereof, the Board declined to adopt the proposed decision and thereafter on February 15, 2013 issued an Order of Non-adoption notifying the parties of the final date to submit requests for oral arguments. Having timely received Respondent's request for oral arguments, on March 28, 2013, the Board issued a Notice of time for Oral Argument. Oral argument was heard on April 25, 2013, and the Board voted on the matter that same day. The time for filing written argument in this matter having expired, written argument having been filed by both parties and such written arguments, together with the entire record, including the transcript of said hearing, having been read and

considered, pursuant to Government Code Section 11517, the Board hereby makes the following decision and order:

FACTUAL FINDINGS

1. Complainant filed the Accusation in her official capacity.

2. On March 13, 2008, the Board issued Physician's and Surgeon's Certificate Number A 103097 to Respondent. The certificate has been in effect since then, and expires on August 31, 2013, unless renewed. The certificate has not been previously disciplined.

3. On January 4, 2012, pursuant to stipulation, Respondent's certificate was suspended on an interim basis pursuant to Government Code section 11529, pending the outcome of the instant proceedings.[1]

4. Respondent received his medical degree from George Washington University in Washington, D.C. He completed a three-year anesthesia residency at Cornell University in Ithaca, New York, and a one year pain management fellowship at the University of California, Los Angeles. Respondent is board-certified in anesthesiology and pain management.

5. Respondent was very candid and forthright at the hearing about his substance abuse history. He grew up in a small town in Minnesota. He tried alcohol as a teenager, but did not find it appealing. He attended college at Arizona State University in Tempe, Arizona, where he graduated in 1998. He was diagnosed with cancer in his senior year, and his experience impacted his decision to specialize in anesthesia and pain management. In 1998, at age 24, as he started medical school in the District of Columbia, Respondent openly acknowledged that he was gay. Approximately two years later, in the Summer of 2000, he started using methamphetamine (meth), in a form commonly referred to as crystal meth, and gammahydroxybutyric acid (GHB). GHB, often referred to as the date rape drug, is an intoxicant that Respondent used to counter the speed-inducing effect of meth. Starting in 2005, Respondent started using Xanax, an anti-anxiety medication or benzodiazepine, to achieve the same results as GHB. He used the drugs recreationally, noting that they were prevalent in the gay community. Respondent continued to periodically use the two substances throughout medical school and during his residency and fellowship, on weekends when not in school or working.

6. Respondent's use of drugs increased in type of substance and dosage after joining the labor force. His first employment, from approximately June 2009 until October 2010, was with a five-physician, hospital-based pain management and anesthesia group. He was fired from this job after it was discovered that he diverted drugs for his personal use.

[1] As part of his stipulated interim suspension, Respondent agreed to waive any time limits contained in the statute and to continued suspension pending Board review of the instant matter.

7. In October 2010, he joined KJD Anesthesia Group (KJD), which provided anesthesiologists to about 20 hospitals and surgery centers. Respondent was one of about 20 independent contractors, and planned to start his own private pain management practice.

8. Respondent's meth use increased in 2010, as he started to ingest it intravenously and had two to three binges per month. He stared using Fentanyl, a synthetic opiate analgesic, in April 2010, to come down form meth binges. His tolerance for Fentanyl increased, and from May 2010 through November 2010 he was injecting 1000 micrograms (mcg) on a daily basis. In Spring 2011, Respondent was injecting 100 to 200 mcg of Fentanyl two to three times per week, even when not binging on meth. He also occasionally used the sedative-hypnotic Ambien or other benzodiazepines, such as midazolam, to come down from meth binges.

9. Respondent was hospitalized on three occasions due to overdoses of GHB.

10. On May 1, 2011, Respondent self-injected propofol, a short-acting, fast-onset hypnotic sedative sold under the brand Diprivan. It is used in surgical procedures prior to other anesthetics, and Respondent had administered it on thousands of occasions. Respondent used it to take away the anxiety of meth, and did so on multiple occasions over the following 13 days. He repeatedly injected it after work, at the rate of about 70 milligrams every 45 minutes. Respondent was involved in three car accidents, two of which he described as "fender benders" over a four-day period while under the influence of propofol, although neither involved another person or vehicle.

11. On May 13, 2011, Respondent injected propofol while working at the Encino Plaza surgical center, during a lunch break between the morning surgery and the afternoon procedure. He administered anesthesia to one patient after having injected the propofol.

12. Respondent realized that he had "crossed a line' by using propofol at work. Although he was glad the patient had not suffered any actual harm, he was aware that he had placed someone other than himself in harm's way. Before this he had been trying to quit on his own, to no avail. Before May 13, 2011, Respondent believed that he could stop using drugs on his own, but after this incident Respondent concluded that he needed help. He did not return to work on May 14, 2011, and started consulting others and making calls to enter a rehabilitation program.

13. One of those he consulted was Matthew A. Torrington, M.D. (Torrington), an addiction medicine specialist. Dr. Torrington concurred with Respondent's plan to enter an inpatient rehabilitation program, and agreed to provide post-discharge outpatient treatment.

14. On May 19, 2011, Respondent entered the Hezelden drug rehabilitation program, in Center City, Minnesota, one of the oldest and most-respected rehabilitation programs in the country. It was a 90-day inpatient program, and Respondent was permitted to

complete the last 60 days of the program at another preeminent facility, the Betty Ford Center in Rancho Mirage, California. He successfully completed the programs.

15. In search of continuing rehabilitation treatment, on August 15, 2011, Respondent enrolled in the Pacific Assistance Group (PAG), a professional support and monitoring program for post-treatment support and monitoring. The group specializes in providing services to health professionals and offers group support groups and random monitoring for substances of abuse. A principal in the group, James Conway, M.F.T (Conway), ran a similar program, the Board's Diversion Program, which is no longer in existence. Respondent attended a group meeting on August 21, 2011, at which he reported that he was focused on his recovery and that he was attending daily meetings.

16. Respondent commenced psychotherapy with James A. Peck, Psy.D. (Peck) on August 17, 2011. Dr. Peck has extensive experience in, and specializes in, the treatment of individuals suffering from substance abuse. He was involved in a five-year study of pharmacological and behavioral interventions for meth abusers.

17. Respondent returned to work for KJD, on a part-time basis, on August 22, 2011.

18. On August 25, 2011, Respondent used Fentanyl and propofol at home after work. As he explained at the hearing, at the time he believed that he had control of his disease and that he could take a "couple of weeks off" before starting the PAG drug monitoring. On August 26, 2011, a nurse reported to Michael Kelly, M.D. (Kelly), a principal at KJD who was also at the surgery center where Respondent was working, that she had seen needle marks on Respondent. Dr. Kelly was unable to contact Respondent by phone, and immediately suspended Respondent from KJD. Dr. Kelly also reported the matter to Conway. Conway was able to reach Respondent on August 29, 2011, and Respondent admitted his relapse.

19. On August 29, 2011, Respondent went into one of the surgery centers where he had worked, the Modern Institute of Plastic Surgery in Beverly Hills, California, and stole two 50 milliliter bottles of propofol. He went home and injected the entire quantity over the next few hours.

20. Respondent realized that he "had not gotten it," and that he needed to return to an intensive inpatient program. On September 1, 2011, Respondent returned to the Betty Ford Center, where he remained for 30 days.

21. At the hearing, Respondent characterized the four-day relapse as his rock bottom moment, an event worse than his 12-year history of abuse. He referred to what followed as his surrender into full compliance with his rehabilitation program. His outlook at the time, which he has carried to the present, is that he needs to remain clean and sober in order to save his life. Taking one day at a time, Respondent has remained clean and sober. He has assembled a substantial support team as he seeks to completely change his life.

22. In October 2011, Respondent went to the Board and reported his substance abuse problem, which started a process that eventually led to the interim suspension of his license and to the instant proceeding.

23. Respondent broke free of his old apartment and moved into a sober living home, operated by the La Fuente Hollywood Treatment Center (La Fuente), where he remained from October 2011 until February 2012. Manuel Rodriguez (Rodriguez), La Fuente's executive director, testified that the home had strict rules, counseling, and drug testing. Respondent was an active participant in the program, one who completely threw himself into recovery. Rodriguez soon noticed growth in Respondent and they remain in contact. Respondent volunteers at the home to speak to others about his experience.

24. a. Respondent has been under the care of Dr. Torrington since his September 2011 discharge from the Betty Ford Center. Dr. Torrington was aware of Respondent's other supports and devised a multimodal treatment plan that would address all aspects of recovery, including biological, psychological, social, spiritual, and nutritional. Dr. Torrington is in charge of the biological or medical aspect, and meets with Respondent on a weekly basis. Dr. Torrington's key tool is the relatively new drug naltrexone, sold under the brand name Vivitrol, which was approved in 2010 or 2011 for the treatment of opiate addiction. The medication blocks the brain's receptors for opiates, negating the drug's effects. Starting in December 2011, Dr. Torrington has intramuscularly injected the long-acting medication once per month. Dr. Torrington also performs random testing for a panel of 12 drugs of abuse.

b. Respondent has been compliant with Dr. Torrington's treatment plan, and has never missed an appointment. In fact, in his testimony Dr. Torrington referred to Respondent as part of the one percent of patients who follows all his physician's directions. In his opinion, Respondent's compliance and extensive program make the risk of relapse very small.

25. a. Respondent has regular, mostly weekly, sessions with Dr. Peck, where he probes deeper into issues that may have led or contributed to his addiction. Additional sessions have been conducted if particularly stressful events were anticipated, like Respondent's first trip back to his home town.

b. Dr. Peck, who is familiar with Respondent's entire rehabilitation program, has never seen a more comprehensive program and has never seen anyone more committed to recovery than respondent. He spoke favorably of Respondent's progress and the insights he has gained. Given Respondent's progress and abstinence, Dr. Peck's current diagnosis of Respondent is substance dependence, in sustained full remission. In his opinion, Respondent can safely return to the practice of anesthesia.

26. a. Respondent also returned to PAG after his discharge from the Betty Ford Center and continues to participate in the program. He attends two group meetings per week, at which Conway acts as the facilitator for the participating physicians.

b. Conway testified at the hearing and corroborated Respondent's testimony about his participation in PAG and his commitment to sobriety. He referred to Respondent as a "high level participant," very candid and forthcoming in discussions of his addiction. Conway, like all others who had the opportunity to see Respondent before and after his relapse, described a significant difference in Respondent. After the second stay at the Betty Ford Center, Respondent demonstrated an attitude of "total surrender" to the program, and has enthusiastically followed all recommendations. As an example, Conway noted that during his first stint, Respondent had an attitude of "negotiation," and resisted the suggestion that he try Vivitrol. In his opinion, Respondent's prognosis for continued sobriety is good.

27. As part of the PAG program, Respondent submits to regular bodily fluids testing. The testing has included hair testing for propofol. Significantly, given one of his drugs of choice, a newly developed urine test for a metabolite of propofol has been added to Respondent's test regimen. He has never tested positive for nay controlled substance or dangerous drug.

28. In addition to group meetings as part of the PAG program, Respondent regularly attends approximately two meetings of Alcoholics Anonymous (AA) per day, every day of the week.

29. a. Respondent has a sponsor, Erik Hymon (Hymon), with whom he is in daily contact. They meet at least twice each week. Respondent is also in daily contact with at least ten others working to maintain sobriety, and in regular contact with many more, facts corroborated by several witnesses who are in regular contact with him.

b. Hymon, who has eight years sobriety, has been Respondent's sponsor for about 1.5 years. Hymon is very strict and gives specific directives to Respondent to test his commitment to recovery. Respondent has completed each task, and has done many others on his own, such as helping at meetings. Respondent is working hard to maintain his sobriety, and in Hymon's view, is doing so honestly.

30. Respondent has also started to contribute to the sobriety of others. He is a sponsor. He volunteers to perform tasks at AA meetings. Once each month, Respondent returns to the Betty Ford Center to share his experience with others. He also speaks at Veteran's Administration hospitals. He regularly attends meetings, including a yearly convention, of an organization of recovering doctors, the International Doctors in Alcoholics Anonymous.

31. Respondent presented an impressive number of witnesses who believe in his recovery and who are part of his support group. Steven O'Day, M.D., who is also a participant in PAG, noticed that he relapse deeply impacted Respondent, and has seen a renewed emphasis on recovery and a changed person since the return form the second stay at the Betty Ford Center. Eight other witnesses, Stephen Beebe, Timothy Carpenter, Scott Cullens, Julie Danahan, Shawn Estebo, Mark Jackson, Kayce Jesse, and Carlos Ortiz, attest to Respondent's commitment to recovery. Letters were received in evidence

from 17 additional individuals, most of who are in recovery, also attesting to Respondent's commitment to remain clean and sober.

32. Dr. Kelly described Respondent as a brilliant anesthesiologist, one possessing the rare combination of good bedside manner and competency. Dr. Kelly understands that addiction is an illness and is willing to re-hire Respondent if his license is reinstated. Dr. Kelly plans to take measures to ensure patient safety. Dr. Kelly noted that some of the surgery centers have inquired about Respondent and are willing to allow him to practice in their facilities.

33. Respondent is genuinely remorseful for his substance abuse and his conduct to support his habit. He does not feel victimized by the Board's actions, but understands they are necessary for the protection of the public.

34. In a report dated February 15, 2012, which was received as direct evidence pursuant to stipulation, David J. Sheffner, M.D. (Sheffner), a psychiatrist retained by the Board to render opinions regarding Respondent's fitness to practice medicine, opined that Respondent should not be allowed to be in a professional position where he has access to narcotics. In his opinion, "After the passage of time/considerable treatment/observation, should he at some point petition the Board to be able to practice medicine consistent with the safety and welfare of patients, the key would be to ensure external/objective controls and observation, i.e., as would be included in the details of long-term conditions of his probation (e.g., such requirements as random testing, non-exposure to drugs of abuse, close work site monitoring, no solo practice, treatment with Naltrexone, etc.) [¶] At a minimum, a Board order for treatment/rehabilitation program for chemical dependence would be a necessary requirement (i.e., in conjunction with all the other elements of his future probation) for his [sic] to practice medicine safely (and suffice it to say that a major component of such rehab[ilitation] programs are forms of psychotherapy." (Exh. 5, at p.4.)

35. Dr. Sheffner did not have the benefit of the substantial evidence of rehabilitation presented at the hearing. Given the date of his report, his information was limited to Respondent's significant substance abuse history and his initial rehabilitation efforts. In fact, Respondent has been absent from the practice of medicine for more than one year and has implemented many of Dr. Sheffner's recommendations, such as random testing and psychotherapy. Because of the factual limitations that underlie Dr. Sheffner's opinion and the substantial rehabilitation efforts undertaken by Respondent, the opinions of those with more recent and extensive knowledge of Respondent's condition, Drs. Peck and Torrington and Conway, have been given greater weight.

36. a. Expert testimony was received on the subject of relapse in general and Respondent's likelihood of relapse in particular. Dr. Sheffner opined that "Given the history of the nature, magnitude, and chronicity of Dr. Peterson's problems with substance dependency/abuse, he remains at high risk of readdiction/ the prognosis is guarded, but it is impossible to predict the future with any more specificity."

b. Respondent's experts were all in agreement that relapse is characteristic of addiction. In Conway's opinion, relapse is integrated into the very definition of addiction. Relapses are not uncommon and the best treatment option is to prepare for them. However, the risk of relapse diminishes after a person has attained six months of sobriety. The prognosis for Respondent is good, in part because his relapse, which he referred to as a "therapeutic relapse," was so severe, intense, and, ultimately, brief. Echoing Conway, Dr. Peck testified that nobody can guarantee the absence of relapses, but the longer the period of abstinence the better the prognosis, as in Respondent's case. In Dr. Torrington's opinion, the risk of relapse in Respondent's case was very small, and the potential benefits of his knowledge and experience in anesthesiology far outweighed such risk.

37. After due consideration of the experts' opinions and the evidence of Respondent's rehabilitation, which is substantial at such an early stage of recovery, it is concluded that Respondent is presently fit to practice medicine, with appropriate safeguards to ensure public safety, albeit not anesthesia at this time. Respondent's commitment to his recovery was amply demonstrated by his testimony at the hearing, and, more importantly, by his actions outside the courtroom. Actions he has taken, such as random substance monitoring, naltrexone injections, 12-step meetings, and psychotherapy, have not only demonstrated his commitment to sobriety, but will continue to constitute integral parts of the terms and conditions of licensure.

LEGAL CONCLUSIONS

1. Complainant bears the burden of proving, by clear and convincing evidence to a reasonable certainty, that cause exists to discipline respondent's physician's and surgeon's certificate. (*Ettinger v. Board of Medical Quality Assurance* (1985) 135 Cal.App.3d 853, 856; *James v. Board of Dental Examiners* (1985) 172 Cal.App.3d 1096, 1104.) This means that he burden rests on Complainant to establish the charging allegations by proof that is clear, explicit and unequivocal – so clear as to leave no substantial doubt, and sufficiently strong to command the unhesitating assent of every reasonable mind. (*In re Marriage of Weaver* (1990) 224 Cal.App.3d 478.)

2. Cause exists to discipline Respondent's license pursuant to section 2239 in that he used a controlled substance, methamphetamine, and dangerous drugs, Fentanyl and propofol, to such extent and in such a manner as to be dangerous or injurious to himself and others, by reason of factual finding numbers 5 through 11, 18, and 19.

3. Cause exists to discipline Respondent's license pursuant to section 2234, subdivision (e), in that he committed an act of dishonesty and corruption substantially related to the qualifications, functions, and duties of a physician, by reason of factual finding number 19.

4. Cause exists to discipline Respondent's license pursuant to section 2234, in that he engaged in unprofessional conduct, by reason of factual finding numbers 5 through 11, 18, and 19, and legal conclusion numbers 2 and 3.

5. The purpose of licensing statutes and administrative proceedings enforcing licensing requirements is not penal but public protection. (*Hughes v. Board of Architectural Examiners* (1998) 17 Cal.4th 763, 784-786; *Bryce v. Board of Medical Quality Assurance* (1986) 184 Cal.App.3d 1471, 1476).

6. All evidence presented at the hearing has been considered. Respondent has a long-standing substance abuse problem, which has involved multiple substances, and he has suffered a relapse. He has only been clean and sober since August 30, 2011, and appears to be committed to remain so. He has a strong support network, and is on constant vigilance to prevent relapse. Despite these efforts, the likelihood of relapse still exists especially given the nature of his practice as an anesthesiologist with the ability to work at multiple locations. As such, safeguards must be put in place to diminish the chances of relapse and ensure protection of the public. The order that follows is therefore necessary and sufficient for the protection of the public.

Deviations from the model language found in the Board's Manual of Model Disciplinary Orders and Disciplinary Guidelines (2011) have been made to take into account the unique facts and circumstances of this case. For instance, given Respondent's extensive substance abuse history, Respondent must demonstrate sobriety for at least thirty-six (36) months beyond his clean and sober date of August 30, 2011 before he can be cleared to return to the practice of anesthesia. If he is successful, and on confirmation by the Board, the soonest he can return to the practice of anesthesia would be September 1, 2014.

ORDER

Physician's and Surgeon's Certificate No. A 103097 issued to Respondent Ryan C. Peterson, M.D. is hereby revoked. However, the revocation is stayed and Respondent's certificate is placed on probation for seven (7) years upon the following terms and conditions.

1. Respondent may not practice anesthesia until the Board has verified that he has achieved thirty-six (36) months of sobriety from August 30, 2011.

2. Controlled Substances – Restriction.

Respondent shall not order, prescribe, dispense, administer, furnish, or possess any controlled substances as defined in the California Uniform Controlled Substances Act until he has achieved an additional 36 months of sobriety from August 30, 2011.

Respondent shall not issue an oral or written recommendation or approval to a patient or a patient's primary caregiver for the possession or cultivation of marijuana for the personal medical purposes of the patient within the meaning of Health and Safety Code section 11362.5. If Respondent forms the medical opinion, after an appropriate prior examination and a medical indication, that a patient's medical condition may

benefit from the use of marijuana, Respondent shall so inform the patient and shall refer the patient to another physician who, following an appropriate prior examination and a medical indication, may independently issue a medically appropriate recommendation or approval for the possession or cultivation of marijuana for the personal medical purposes of the patient within the meaning of Health and Safety Code section 11362.5. In addition, Respondent shall inform the patient or the patient's primary caregiver that respondent is prohibited from issuing a recommendation or approval for the possession or cultivation of marijuana for the personal medical purposes of the patient and that the patient or the patient's primary caregiver may not rely on Respondent's statements to legally possess or cultivate marijuana for the personal medical purposes of the patient. Respondent shall fully document in the patient's chart that the patient or the patient's primary caregiver was so informed. Nothing in this condition prohibits Respondent from providing the patient or the patient's primary caregiver information about the possible medical benefits resulting from the use of marijuana.

3. Controlled Substances – Abstain From Use.

Respondent shall abstain completely from the personal use or possession of controlled substances as defined in the California Uniform Controlled Substances Act, dangerous drugs as defined by Business and Professions Code section 4022, and any drugs requiring a prescription. This prohibition does not apply to medications lawfully prescribed to respondent by another practitioner for a bona fide illness or condition.

Within 15 calendar days of receiving any lawfully prescribed medications, Respondent shall notify the Board or its designee of the: issuing practitioner's name, address, and telephone number; medication name, strength, and quantity; and issuing pharmacy name, address, and telephone number.

If Respondent has a confirmed positive biological fluid test for any substance (whether or not legally prescribed) and has not reported the use to the Board or its designee, Respondent shall receive a notification from the Board or its designee to immediately cease the practice of medicine. The Respondent shall not resume the practice of medicine until final decision on an accusation and/or a petition to revoke probation. An accusation and/or petition to revoke probation shall be filed by the Board within 15 days of the notification to cease practice. If the Respondent requests a hearing on the accusation and/or petition to revoke probation, the Board shall provide the Respondent with a hearing within 30 days of the request, unless the Respondent stipulates to a later hearing. A decision shall be received from the Administrative Law Judge or the Board within 15 days unless good cause can be shown for the delay. The cessation of practice shall not apply to the reduction of the probationary time period.

If the Board does not file an accusation or petition to revoke probation within 15 days of the issuance of the notification to cease practice or does not provide Respondent with a hearing within 30 days of such a request, the notification of cease practice shall dissolve.

4. Alcohol – Abstain From Use.

Respondent shall abstain completely from the use of products or beverages containing alcohol.

If Respondent has a confirmed positive biological fluid test for alcohol, Respondent shall receive a notification form the Board or its designee to immediately cease the practice of medicine. The Respondent shall not resume the practice of medicine until final decision on an accusation and/or a petition to revoke probation. An accusation and/or petition to revoke probation shall be filed by the Board within 15 days of the notification to cease practice. If the Respondent requests a hearing on the accusation and/or petition to revoke probation, the Board shall provide the Respondent with a hearing within 30 days of the request, unless the Respondent stipulates to a later hearing. A decision shall be received from the Administrative Law Judge or the Board within 15 days unless good cause can be shown for the delay. The cessation of practice shall not apply to the reduction of the probationary time period.

If the Board does not file an accusation or petition to revoke probation within 15 days of the issuance of the notification to cease practice or does not provide Respondent with a hearing within 30 days of such a request, the notification of cease practice shall be dissolved.

5. Biological Fluid Testing.

Respondent shall immediately submit to biological fluid testing, at Respondent's expense, upon request of the Board or its designee. "Biological fluid testing" may include, but is not limited to, urine, blood, breathalyzer, hair follicle testing, or similar drug screening approved by the Board or its designee. Prior to practicing medicine, Respondent shall contract with a laboratory or service approved in advance by the Board or its designee that will conduct random, unannounced, observed, biological fluid testing. The contract shall require results of the tests to be transmitted by the laboratory or service directly to Board or its designee within four hours of the results becoming available. Respondent shall maintain this laboratory or service contract during the period of probation.

A certified copy of any laboratory test result may be received in evidence in any proceedings between the Board and Respondent.

If Respondent fails to cooperate in a random biological fluid testing program within the specified time frame, Respondent shall receive a notification from the Board or its designee to immediately cease the practice of medicine. The Respondent shall not resume the practice of medicine until final decision on an accusation and/or a petition to revoke probation. An accusation and/or petition to revoke probation shall be filed by the Board within 15 days of the notification to cease practice. If the Respondent requests a hearing on the accusation and/or petition to revoke probation, the board shall provide the

Respondent with a hearing within 30 days of the request, unless the Respondent stipulates to a later hearing. A decision shall be received from the Administrative Law Judge or the Board within 15 days unless good cause can be shown for the delay. The cessation of practice shall not apply to the reduction of the probationary time period.

If the board does not file an accusation or petition to revoke probation within 15 days of the issuance of the notification to cease practice or does not provide Respondent with a hearing within 30 days of such a request, the notification of cease practice shall be dissolved.

6. Psychotherapy.

Respondent shall continue in psychotherapy with Dr. Peck, or if Dr. Peck is no longer available, with a California-licensed board certified psychiatrist or a licensed psychologist who has a doctoral degree in psychology and at least five years of postgraduate experience in the diagnosis and treatment of emotional and mental disorders. Upon approval, Respondent shall undergo and continue psychotherapy treatment, including any modifications to the frequency of psychotherapy, until the Board or its designee deems that no further psychotherapy is necessary.

The psychotherapist shall consider any information provided by the Board or its designee and any other information the psychotherapist deems relevant and shall furnish a written evaluation report to the Board or its designee. Respondent shall cooperate in providing the psychotherapist any information and documents that the psychotherapist may deem pertinent.

Respondent shall have the treating psychotherapist submit quarterly status reports to the Board or its designee. The Board or its designee may require Respondent to undergo psychiatric evaluations by a Board-appointed board certified psychiatrist. If, prior to the completion probation, Respondent is found to be mentally unfit to resume the practice of medicine without restrictions, the Board shall retain continuing jurisdiction over Respondent's license and the period of probation shall be extended until the Board determines that Respondent is mentally fit to resume the practice of medicine without restrictions.

Respondent shall pay the cost of all psychotherapy and psychiatric evaluations.

7. Psychiatric Evaluation.

Within 30 calendar days of the effective date of this Decision, and on whatever periodic basis thereafter may be required by the Board or its designee, Respondent shall undergo and complete a psychiatric evaluation (and psychological testing, if deemed necessary) by a Board-appointed board certified psychiatrist, who shall consider any information provided by the Board or designee and any other information the psychiatrist deems relevant, and shall furnish a written evaluation report to the Board or its designee. Psychiatric evaluations conducted prior to the effective date of the Decision shall not be

accepted towards the fulfillment of this requirement. Respondent shall pay the cost of all psychiatric evaluations and psychological testing.

Respondent shall comply with all restrictions or conditions recommended by the evaluating psychiatrist within 15 calendar days after being notified by the Board or its designee.

8. Practice Monitoring.

Within 30 calendar days of the effective date of this Decision, Respondent shall submit to the Board or its designee for prior approval as a practice monitor, the name and qualifications of one or more licensed physicians and surgeons whose licenses are valid and in good standing, and who are preferably American Board of Medical Specialties (ABMS) certified. A monitor shall have no prior or current business or personal relationship with Respondent, or other relationship that could reasonably be expected to compromise the ability of the monitor to render fair and unbiased reports to the Board, including but not limited to any form of bartering, shall be in Respondent's field of practice, and must agree to serve as Respondent's monitor. Respondent shall pay all monitoring costs. Dr. Kelly, Respondent's former employer, may not serve as his practice monitor.

The Board or its designee shall provide the approved monitor with copies of the Decision, and Accusations, and a proposed monitoring plan. Within 15 calendar days of receipt of the Decision, Accusation, and proposed monitoring plan, the monitor shall submit a signed statement that the monitor has read the Decision, and Accusation, fully understands the role of a monitor, and agrees or disagrees with the proposed monitoring plan. If the monitor disagrees with the proposed monitoring plan, then monitor shall submit a revised monitoring plan with the signed statement for approval by the Board or its designee.

Within 60 calendar days of the effective date of this Decision, and continuing throughout probation, Respondent's practice shall be monitored by the approved monitor. Respondent shall make all records available for immediate inspection and copying on the premises by the monitor at all times during business hours and shall retain the records for the entire term of probation.

If Respondent fails to obtain approval of a monitor within 60 calendar days of the effective date of the Decision, Respondent shall receive a notification from the Board or its designee to cease the practice of medicine within three (3) calendar days after being so notified. Respondent shall cease the practice of medicine until a monitor is approved to provide monitoring responsibility.

The monitor shall submit a quarterly written report to the Board or its designee which includes an evaluation of Respondent's performance, indicating whether Respondent's practices are within the standards of practice of anesthesia, and whether Respondent is practicing medicine safely. It shall be the sole responsibility of

Respondent to ensure that the monitor submits the quarterly written reports to the Board or its designee within 10 calendar days after the end of the preceding quarter.

If the monitor resigns or is no longer available, Respondent shall, within 5 calendar days of such resignation or unavailability, submit to the Board or its designee, for prior approval, the name and qualifications of a replacement monitor who will be assuming that responsibility within 15 calendar days. If Respondent fails to obtain approval of a replacement monitor within 60 calendar days of the resignation or unavailability of the monitor, Respondent shall receive a notification from the Board or its designee to cease the practice of medicine within three (3) calendar days after being so notified. Respondent shall cease the practice of medicine until a replacement monitor is approved and assumes monitoring responsibilities.

In lieu of a monitor, Respondent may participate in a professional enhancement program equivalent to the one offered by the Physician Assessment and Clinical Education Program at the University of California, San Diego School of Medicine, that includes, at minimum, quarterly chart review, semi-annual practice assessment, and semi-annual review of professional growth and education. Respondent shall participate in the professional enhancement program at Respondent's expense during the term of probation.

9. Solo Practice.

Respondent is prohibited from engaging in the solo practice of medicine. Prohibited solo practice includes, but is not limited to, a practice where: 1) Respondent merely shares office space with another physician but is not affiliated for purposes of providing patient care, or 2) Respondent is the sole physician practitioner at that location.

If Respondent fails to establish a practice with another physician or secure employment in an appropriate practice setting within 60 calendar days of the effective date of this Decision, Respondent shall receive a notification from the Board or its designee to cease the practice of medicine within three (3) calendar days after being so notified. Respondent shall not resume practice until an appropriate practice setting is established.

If, during the course of the probation, the Respondent's practice setting changes and the Respondent is no longer practicing in a setting in compliance with this Decision, the Respondent shall notify the Board or its designee within 5 calendar days of the practice setting change. If Respondent fails to establish a practice with another physician or secure employment in an appropriate practice setting within 60 calendar days of the practice setting change, Respondent shall receive a notification from the Board or tis designee to cease the practice of medicine within three (3) calendar days after being so notified. The Respondent shall not resume practice until an appropriate practice setting is established.

10. Notification.

Within seven (7) days of the effective date of this Decision, Respondent shall provide a true copy of this Decision and Accusation to the Chief of Staff or the Chief Executive Officer at every hospital where privileges or membership are extended to Respondent, at any other facility where Respondent engages in the practice of medicine, including all physician and locum tenens registries or other similar agencies, and to the Chief Executive Officer at every insurance carrier which extends malpractice insurance coverage to Respondent. Respondent shall submit proof of compliance to the Board or its designee within 15 calendar days.

11. Supervision of Physician Assistants.

During probation, Respondent is prohibited from supervising physician assistants.

12. Obey All Laws.

Respondent shall obey all federal, state and local laws, all rules governing the practice of medicine in California and remain in full compliance with any court-ordered criminal probation, payments, and other orders.

13. Quarterly Declarations.

Respondent shall submit quarterly declarations under penalty of perjury on forms provided by the Board, stating whether there has been compliance with all the conditions of probation. Respondent shall submit quarterly declarations not later than 10 calendar days after the end of the preceding quarter.

14. General Probation Requirements.

Respondent shall comply with the Board's probation unit and all terms and conditions of this Decision. Respondent shall, at all times, keep the Board informed of Respondent's business and residence addresses, email address (if available), and telephone number. Changes of such addresses shall be immediately communicated in writing to the Board or its designee. Under no circumstances shall a post office box serve as an address of record, except as allowed by Business and Professions Code section 2021, subdivision (b). Respondent shall not engage in the practice of medicine in Respondent's or a patient's place of residence, unless the patient resides in a skilled nursing facility or other similar licensed facility. Respondent shall maintain a current and renewed California physician's and surgeon's license.

Respondent shall immediately inform the Division or its designee, in writing, of travel to any areas outside the jurisdiction of California which lasts, or is contemplated to last, more than 30 calendar days.

In the event Respondent should leave the State of California to reside or to practice Respondent shall notify the Board or its designee in writing 30 calendar days prior to the dates of departure and return.

15. Interview with the Board or Its Designee.

Respondent shall be available in person for interviews either at Respondent's place of business or at the probation unit office, with the Board or its designee upon request at various intervals and either with or without prior notice throughout the term of probation.

16. Non-practice While on Probation.

Respondent shall notify the Board or its designee in writing 15 calendar days of any periods of non-practice lasting more than 30 calendar days and within 15 calendar days of Respondent's return to practice. Non-practice is defined as any period of time Respondent is not practicing medicine in California as defined in Business and Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month in direct patient care, clinical activity or teaching, or other activity as approved by the Board. All time spent in an intensive training program which has been approved by the Board or its designee shall not be considered non-practice. Practicing medicine in another state of the United States or Federal jurisdiction while on probation with the medical licensing authority of that state or jurisdiction shall not be considered non-practice. A Board-ordered suspension of practice shall not be considered as a period of non-practice.

In the event Respondent's period of non-practice while on probation exceeds 18 calendar months, Respondent shall successfully complete a clinical training program that meets the criteria of Condition 18 of the current version of the Board's "Manual of Model Disciplinary Orders and Disciplinary Guidelines" prior to resuming the practice of medicine.

Respondent's period of non-practice while on probation shall not exceed two (2) years.

Periods of non-practice will not apply to the reduction of the probationary term.

Periods of non-practice will relieve respondent of the responsibility to comply with the probationary terms and conditions with the exception of this condition and the following terms and conditions of probation: Obey All Laws; and General Probation Requirements.

17. Completion of Probation.

Respondent shall comply with all financial obligations (e.g., restitution, probation costs) not later than 120 calendar days prior to the completion of probation. Upon successful completion of probation, Respondent's certificate shall be fully restored.

18. Violation of Probation.

Failure to fully comply with any term or condition of probation is a violation of probation. If Respondent violates probation in any respect, the Board, after giving Respondent notice and the opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed. If an Accusation or Petition to Revoke Probation, or an Interim Suspension Order is filed against Respondent during probation, the Board shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final.

19. License Surrender.

Following the effective date of this Decision, if Respondent ceases practicing due to retirement or health reasons or is otherwise unable to satisfy the terms and conditions of probation, Respondent may request to surrender his or her license. The Board reserves the right to evaluate Respondent's request and to exercise its discretion in determining whether or not to grant the request, or to take any other action deemed appropriate and reasonable under the circumstances. Upon formal acceptance of the surrender, Respondent shall within 15 calendar days deliver respondent's wallet and wall certificate to the board or its designee and respondent shall no longer practice medicine. Respondent will no longer be subject to the terms and conditions of probation. If Respondent re-applies for a medical license, the application shall be treated as a petition for reinstatement or a revoked certificate.

20. Probation Monitoring Costs.

Respondent shall pay the costs associated with probation monitoring each and every year of probation, as designated by the Board, which may be adjusted on an annual basis. Such costs shall be payable to the Medical Board of California and delivered to the Board or its designee no later than January 31 of each calendar year.

This decision shall become effective at 5 p.m. on June 21, 2013.

IT IS SO ORDERED this 22nd day of May, 2013.

Reginald Low, M.D., Chairperson
Panel B
Medical Board of California